

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:13-CT-3265-BO

BRADLEY LEAK,)	
Plaintiff,)	
)	
)	
v.)	<u>ORDER</u>
)	
)	
MS. REID,)	
Defendant.)	

On October 25, 2013, plaintiff filed this action pursuant to 42 U.S.C. § 1983. On January 31, 2014, plaintiff moved for voluntary dismissal (DE 9). An action may be dismissed voluntarily by plaintiff without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R.Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on the plaintiff's request except upon an order of the court. See Fed. R.Civ. P. 41(a)(2). At this point, no 28 U.S.C. § 1915 review has been undertaken, defendants have not been served, nor have they filed any responsive pleadings. Accordingly, plaintiff's motion for voluntary dismissal pursuant to Rule 41(a)(1) is GRANTED (DE 9), and the action is DISMISSED without prejudice. Having so determined, the court finds it appropriate to relieve plaintiff from having to pay the filing fee in this matter. Accordingly, this court's January 28, 2014, order (DE 8) is vacated. Any fees withdrawn from Leak's trust fund account should be refunded to that account.

SO ORDERED, this the 26 day of May 2014.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE